

REMARKS

Claims 11 and 30 have been amended. Claims 1-10, 13 and 15 have been canceled. Claims 22-29 have been withdrawn. No new matter has been added. Thus, claims 11, 12, 14 and 16-30 remain pending in the present application. In view of the above noted amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

Claims 11, 12, 14, 16-19, and 21 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 3,054,321 to Macchia ("Macchia") in view of U.S. Publ. Appln. No. 2004/0143265 to Landry et al. ("Landry") and U.S. Patent No. 6,470,767 to Takachi.

Claim 11 has been amended to recite "the ball-and-socket joint includes a ball in contact with one of the proximal section and the distal section." Macchia does not teach this feature because the spherical tip 40 is in contact with a head 44. That is, it would be inappropriate, as a terminological matter, to regard head 44 as part of a "shaft," as that term is understood in light of the specification. Macchia is directed not to a single bone screw having a polyaxial component, but instead to an assembly of two screws, each provided with its own head (26, 44) and separate shaft (22, 20) that are joined to each other by mating tip 40 with head 44. Therefore, it is not the case that Macchia teaches a ball that is in contact with either shafts 22, 20.

Moreover, neither Landry nor Takachi overcomes this deficiency in Macchia. Accordingly, withdrawal of this rejection is requested.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macchia in view of Landry.

Claim 30 has been amended to recite "a distal section polyaxially associated with and in contact with the proximal section" of the shaft. As explained above, no portion of either shaft 22

or 20 of the two-screw assembly of Macchia contacts spherical tip 40. Instead, the two shafts are separated by the intermediate head 44. Therefore, claim 30 is patentable over Macchia. Since Landry does not overcome this deficiency, withdrawal of this rejection is requested.

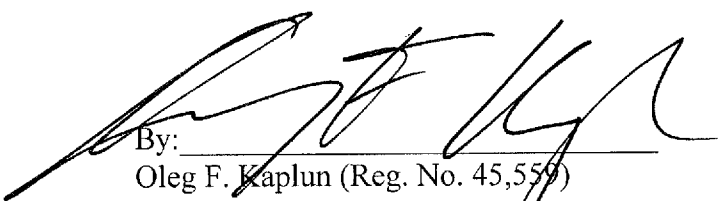
Claim 30 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Macchia in view of Landry, Takachi, and U.S. Publ. Appln. No. 2004/0236330 to Purcell et al. ("Purcell").

Since Purcell does not overcome the deficiencies noted above with respect to Macchi, Landry, and Takachi, withdrawal of this rejection is requested.

In view of the remarks submitted above, the Applicants respectfully submit that the present case is in condition for allowance. All issues raised by the Examiner have been addressed, and a favorable action on the merits is thus earnestly requested.

Respectfully submitted,

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